

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Sierra Club,)	
)	
Petitioner,)	Case No. 15-1489
)	
v.)	
)	
Department of Energy,)	
)	
Respondent.)	

**AMERICAN PETROLEUM INSTITUTE’S
MOTION FOR LEAVE TO FILE A
SHORT STAND-ALONE INTERVENOR BRIEF**

The American Petroleum Institute (API) has been granted intervention in five pending proceedings involving DOE and FERC approvals relating to new liquefied natural gas (LNG) facilities or modifications to existing facilities: this case, involving DOE’s authorization to export LNG to non-free trade agreement nations from the Freeport LNG facility (*Freeport*), and four other related cases involving FERC orders approving the construction of LNG export facilities, including Freeport, the Sabine Pass LNG facility (*Sabine Pass*), the Dominion Cove Point LNG facility (*Cove Point*), and the Corpus Christi LNG facility (*Corpus Christi*). Each Sierra Club petition

poses, among other things, the question of whether the approving agency's obligations under NEPA extend to upstream environmental assessment of so-called "induced production" of natural gas.

API seeks to file a short, non-overlapping, 2,500-word intervenor brief, without affecting the standard brief length of Intervenor-Respondents Freeport LNG Expansion, LP; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC (Freeport). Materially identical motions by API have been granted by this Court in all four related cases.¹ API is authorized to represent that DOE does not oppose this motion, Freeport consents to this motion, and Sierra Club takes no position.

The underlying DOE order challenged in this case pertains to exports of LNG from the Freeport LNG facility, and Freeport can be reasonably expected to focus the bulk of its attention on Freeport's specific circumstances and DOE's justification for its order as it relates to Freeport. But the Sierra Club has lodged a broader and more general NEPA challenge to DOE's order.

¹ See *Sierra Club v. FERC, Clerk's Order*, No. 14-1249, Document No. 1555432 (D.C. Cir. June 3, 2015); *Sierra Club, et al. v. FERC, Clerk's Order*, No. 14-1275, Document No. 1554033 (D.C. Cir. May 26, 2015); *EarthReports, Inc., et al. v. FERC, Clerk's Order*, No. 15-1127, Document No. 1561312 (D.C. Cir. July 7, 2015); *Sierra Club v. FERC, Clerk's Order*, No. 15-1133, Document No. 1562857 (D.C. Cir. July 16, 2015).

As the largest trade association for the oil and natural gas industry in the United States, and the only party representing a class of interests directly affected by the outcome in this proceeding, API is well positioned to respond to that broad challenge and to describe the economic and policy implications of the outcome Sierra Club seeks. And because API is a trade association, not a facility owner or operator, it makes practical sense for API to submit a separate, concise brief on those issues.

API thus respectfully requests leave to file a succinct, non-overlapping intervenor brief of no more than 2,500 words limited to the issues unique to API and its members. It should be emphasized that API *does not* advocate for Freeport's brief length to be correspondingly reduced – only that API be granted this modest accommodation, as it was in *Freeport*, *Sabine Pass*, *Corpus Christi*, and *Cove Point*. API will closely coordinate with Corpus Christi to ensure that the intervenors' arguments do not overlap and that the briefs do not repeat themselves or create a burden on the Court.

For all of these reasons, API respectfully requests the Court grant its unopposed motion for leave to file a succinct, separate intervenor brief not to exceed 2,500 words.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 22, 2016, the foregoing motion was electronically filed through this Court's CM/ECF system, which will send a notice of filing to all registered users.

/s/ Janna R. Chesno

Janna R. Chesno